

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

DAVID N. TERHUNE,

Plaintiff,

v.

APPLIED EXTRUSION
TECHNOLOGIES, INC., JACKSON
CRAIG and TERRY SMITH,

Defendants.

C.A. No. 06-360-MPT

MOTION TO DISMISS

Defendants Applied Extrusion Technologies, Jackson Craig and Terry Smith (collectively, the "Defendants") hereby move, pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6) to dismiss Count I of the Amended Complaint for failure to state a claim, to dismiss Counts II, III and IV of the Amended Complaint for failure to state a claim or in the alternative for lack of subject matter jurisdiction, and to dismiss Counts V and VI for lack of subject matter jurisdiction. The grounds for this motion are more fully set forth in the opening brief in support of this motion, filed contemporaneously herewith.

Respectfully submitted,

POTTER ANDERSON & CORROON LLP

By: /s/ David E. Moore

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Dated: March 23, 2007
785238 / 22036-002

*Attorneys for Defendants
Applied Extrusion Technologies, Inc.,
Jackson Craig and Terry Smith*

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CERTIFICATE OF SERVICE

I, David E. Moore, hereby certify that on March 23, 2007, the attached document was hand delivered to the following persons and was electronically filed with the Clerk of the Court using CM/ECF which will send notification to the registered attorney(s) of record that the document has been filed and is available for viewing and downloading:

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I hereby certify that on March 23, 2007, I have Electronically Mailed the documents to the following:

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ORDER

Having considered Defendants' Motion to Dismiss, IT IS HEREBY ORDERED,
this ____ day of _____, 2007, that the Motion is GRANTED.

J.